

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSEPH JAEGER, et al.,

Plaintiffs,

No. CIV S-05-0095 FCD KJM PS

vs.

PAMELA ROGERS, et al,

Defendants.

ORDER

Presently calendared for hearing on May 25, 2005 is defendants' motion to dismiss. Plaintiffs have filed a notice in which they assert that they have not received a copy of the motion and documents in support. The proof of service attached to the motion to dismiss indicates plaintiffs were properly served by mail and complies with Local Rule 5-135. It appears, however, that based on plaintiff's late receipt of the documents pertaining to the previously noticed motion to dismiss, that continuance of the hearing is appropriate.

Plaintiffs are advised of the following. Local Rule 78-230(c) provides that opposition to the granting of a motion must be filed fourteen days preceding the noticed hearing date. The Rule further provides that "[n]o party will be entitled to be heard in opposition to a motion at oral arguments if written opposition to the motion has not been timely filed by that party." In addition, Local Rule 78-230(j) provides that failure to appear may be deemed

1 withdrawal of opposition to the motion or may result in sanctions. Finally, Local Rule 11-110
2 provides that failure to comply with the Local Rules “may be grounds for imposition of any and
3 all sanctions authorized by statute or Rule or within the inherent power of the Court.”

4 Accordingly, IT IS HEREBY ORDERED that:

5 1. Plaintiff’s request for special service by registered or certified mail is denied.

6 2. The hearing date of May 25, 2005 is vacated. Hearing on defendant’s motion is
7 continued to June 1, 2005 at 10:00 a.m. in courtroom no. 26.

8 3. Opposition to the motion shall be filed no later than May 18, 2005. Failure to
9 file opposition and appear at the hearing will be deemed as a statement of non-opposition and
10 shall result in a recommendation that this action be dismissed pursuant to Federal Rule of Civil
11 Procedure 41(b).

12 DATED: May 10, 2005.

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15 UNITED STATES MAGISTRATE JUDGE
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